

REMARKS

The Office Action mailed June 28, 2007 has been received and reviewed. Claims 28-31, 33-53, and 55-72 have been allowed. Claims 73-85 have been rejected under 35 U.S.C. § 112, second paragraph, and claims 73, 75-82, 84, and 85 have been rejected under 35 U.S.C. § 102(b). Claims 25-31, 33-53, and 55-85 are pending. For at least the following reasons, Applicant respectfully requests reconsideration and a Notice of Allowance of all of the claims.

A. The Rejection of Claims 73-85 under 35 U.S.C. § 112, second paragraph

Claims 73-85 have been rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In particular, the Office Action has stated that while the independent claims are directed to a retaining block, numerous claim limitations are directed to blocks in courses. The Office Action has stated that it is not understood if Applicant is attempting to claim a block or a retaining wall. Further, the Office Action has stated that the claims have been treated as if Applicant is claiming a retaining wall.

Applicant respectfully disagrees with this rejection. Claims 73-85 are directed to a retaining wall block and should be examined as such. While these claims do use language that refers to courses of blocks, the purpose of that claim language is to provide a context for the structural limitations of the claimed block itself. It is believed by Applicant that use of this context helps to clarify the meaning and intended claim interpretation of the structural limitations of the block itself; it is not the intent of Applicant to claim a retaining wall.

Applicant has not amended the language of independent claims 73 and 82, but for purposes of clarity, has changed the line spacing because it is believed that this will aid in reading the claim language. The claims are directed to the structural features of a retaining wall block; language that refers to courses and walls is only to facilitate understanding of the function of the block features and not to claim the actual courses or walls.

Claim 73, for example, is directed to a retaining wall block that includes the following features:

- a front surface;
- a back surface;

- a top surface having at least a contact portion thereof that is generally horizontal and generally planar;
- a bottom surface having at least a contact portion thereof that is generally horizontal and generally planar;
- first and second sides;
- a first inset in said first side;
- a second inset in said second side;
- each said inset being delimited by a front wall and a back wall that each extend inwardly towards the opposite side;
- a wall interconnecting said front and back walls;
- one or more locator protrusions integrally formed on said top or bottom surface; said front, back and interconnecting walls each extending from a surface that is generally coplanar with the generally horizontal and generally planar contact portion of the surface opposite the surface on which the one or more locator protrusions are formed; and
 - the locator protrusions and insets are sized and shaped to permit relative rotation of the insets and protrusions.

These structural features of the claimed block language are further described in terms of their function, which make reference to courses and walls to facilitate understanding of the function of the block; this language includes:

- the bottom surface contact portion is configured and adapted to rest upon the contact portion of the top surface of a like block when a plurality of like blocks are stacked in ascending courses;
- each locator protrusion is adapted to interact with a wall of an inset on a block in an adjacent course of blocks when a plurality of like blocks are stacked in ascending courses to form a retaining wall so that the insets and locator protrusions of adjacent blocks in adjacent courses contact each other in a shear-resisting position in which interference between the locator protrusions and inset walls resist the tendency of a block in the upper course to slide forward in response to the anticipated forces that will be exerted on the block by retained earth; and
 - the relative rotation facilitates the construction of serpentine walls while maintaining said shear-resisting position.

Independent claim 82 is structured similarly. It should be clear that the claims are directed to a retaining wall block, and the features recited in the claims are retaining wall block features.

It is believed that the claims are clear and definite as being directed to the structural features of a retaining wall block. The Examiner is requested to reconsider and withdraw this rejection.

B. The Rejection of Claims 73, 75-82, 84, and 85 under 35 U.S.C. § 102(b)

Claims 73, 75-82, 84, and 85 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,795,105 to Guth (hereafter referred to as Guth '105). These claims have also been rejected as anticipated by PCT Publication 04/08097 owned by Anchor Wall (hereafter referred to as Anchor Wall '097). Applicant respectfully disagrees with these rejections and respectfully requests reconsideration.

Each of pending claims 73, 75-82, 84, and 85 has an effective filing of date of October 6, 1992. Each of the pending claims is fully-supported by the specification of Application Serial No. 07/957,598. The pending claims have been filed in an application that is a continuation of Application Serial 09/988,983, which is a continuation of Application Serial No. 09/630,978, which is a continuation of Application Serial No. 09/131,084, which is a continuation of Application Serial No. 08/474,097, which is a continuation-in-part of Application Serial No. 08/130,298, which is a continuation-in-part of Application Serial No. 08/056,986, which is a continuation-in-part of Application Serial No. 07/957,598, filed October 6, 1992.

The currently pending claims are entitled to the priority date of Application Serial No. 07/957,598 under 35 U.S.C. § 120 because: (i) the claims are fully-supported by the specification of Application Serial No. 07/957,598; (ii) there has been co-pendency; and (iii) there has been at least one common inventor. With respect to the issue of common inventor, the Examiner's attention is directed to the Supplemental Information Disclosure Statement submitted on June 15, 2006 and previously considered by the Examiner. Submitted in the Information Disclosure Statement of June 15, 2006, the Examiner will note that the inventive entity in U.S. Patent Nos. 5,795,105 and 6,113,318 have been corrected such that Michael E. Woolford has been added. Thus, at least because: (i) the inventive entity of U.S. Patent No. 5,795,105 and U.S. Patent No. 6,113,318 was corrected to add Mr. Woolford; and (ii) there has been co-

pendency; and (iii) the currently pending claims are fully-supported by the specification in Application Serial No. 07/957,598, the pending claims are entitled to an effective filing date of October 6, 1992 -- the filing date of Application Serial No. 07/957,598.

Because the pending claims are entitled to an effective filing date of October 6, 1992, these claims cannot be anticipated by Guth '105 or Anchor Wall '097. Guth '105 is within this currently-pending application's chain of priority and is not available as a reference under any section of 35 U.S.C. § 102 against the pending claims. Anchor Wall '097 is a PCT publication corresponding to Application Serial No. 08/130,298, which is also in this currently pending application's chain of priority. Anchor Wall '097 publication date is not a date that qualifies it as prior art against the currently pending claims; the currently pending claims have an effective filing date of October 6, 1992.

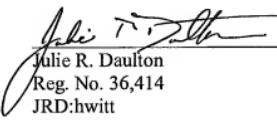
C. Summary

In summary, claims 25-31, 33-53, and 55-85 are pending. Applicant has explained that these claims are entitled to an effective filing date of October 6, 1992, the filing date of Application Serial No. 07/957,598. This means that the rejections under 35 U.S.C. § 102(b) cannot be sustained. Applicant has pointed out how claims 73-85 are directed to a retaining wall block and satisfy § 112, second paragraph. Applicant respectfully submits that there are no issues preventing allowance. A Notice of Allowance is respectfully requested.

If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below listed telephone number.

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